

Village of Irvington  
Zoning Board of Appeals

' Minutes of Meeting held May 16, 2000

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M., Tuesday, May 16, 2000, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman  
Bruce E. Clark  
Robert C. Myers  
George Rowe, Jr.

Mr. Lustenberger acted as Chairman and Mr. Rowe as Secretary of the meeting.

There were six matters on the agenda, three continuations and three new matters:

Continuations

2000-02      Frank Martucci & Robert A. & Katherine Mackie -  
33 Matthiessen Park, Irvington, NY (Sheet 2, Lots  
P109/P12)

2000-04 Joseph & Susan Giamelli - 5 Cindy Lane  
Irvington, NY (Sheet 13; Lot P131)

2000-06 Neal & Carol Barlia - 49 Station Road, Irvington,  
NY (Sheet 7A; Block 234; Lots 9, 10 & 11)

New Matters

2000-07 Paul & Linda Weiss - 158 Fieldpoint Drive,  
Irvington, NY (Sheet 10G, Block 4, Lot 158)

2000-08 Miji Inaba - Fieldpoint Drive, Irvington, NY  
(Sheet 10F, Block 231, Lot 17)

2000-09 Dr. Jack Wazen - 33 Ardsley Avenue West,  
Irvington, NY (Sheet 8, Block 221, Lots 1,7,8B,  
8C)

Martucci and Mackie

This matter had been heard on two prior occasions (February 29, 2000 and March 28, 2000) and adjourned on a third occasion (April 25, 2000) to the instant date, to the minutes of which reference is made here. At issue is whether a proposed subdivision of a two acre lot located in Matthiessen Park provides or requires frontage on a public street pursuant to Section 243-10 of the Code and Section 207-19(G) of the Code. Applicants request (1) an interpretation of those sections to the effect that it does

provide such frontage by virtue of an easement previously described and mapped, or, if it does not, (2) an exception under Section 7-736-3(a) of the Village Law or (3) an area variance under Section 7-736-3(b) of the Village Law.

Applicants seek permission to permit the construction of two new homes on that lot.

Mr. Martucci and the Mackies were represented by Norman Sheer of Bank, Sheer, Sorvino and Seymour, White Plains, NY, objecting neighbors, Mr. and Mrs. Cohen, by Richard M. Gardella of Bertine Hufnagel et al., Scarsdale, NY, and another objecting neighbor, Mr. Harry Jacobs, by Terry A. Rice, of Rice & Amman, Suffern, NY.

An additional letter from Mr. Gardella dated April 20, 2000 had been received prior to this meeting.

Mr. Sheer had attached a statement to his clients' request for a variance, arguing that, under the balancing of factors required by the Code, the area variance should be granted, pointing out inter alia that most homes in the Park do not front on a public street, but rather obtain access via private roads, and that, further, while there are some large parcels, many of the homes are

located on parcels of approximately one acre. He noted that one such private road was owned by one of the applicants here, the so-called parcel P-1 shown on a map submitted to the meeting by Mr. Sheer.

Mr. Gardella, representing Mr. and Mrs. Cohen, stated that he was not aware of the ownership of the private road by Mr. Martucci, and was not prepared to address the significance thereof, but argued, as he had before, that this is an area of large lots, thinly populated and the proposed subdivision would be at odds with the neighborhood.

Mr. Rice, representing Mr. Jacobs, in substance made the same argument.

Both counsel denied the propriety of an exception or variance.

Mr. Sheer responded that the neighborhood was Matthiessen Park as a whole, not just the two acre lot and its immediate abutting property owners.

All of the attorneys commented on the Kim case, Mr. Sheer citing it in his favor, Mr. Gardella and Mr. Rice

pointing out the distinction between that case and the instant case.

The Chairman opined that, putting to one side the request for an interpretation of the two Code sections, whether or not an exception or a variance lies here turns on the determination of the neighborhood, whether it comprises the Park as a whole, in which case there is ample precedent for homes on one acre lots, or whether it is comprised of the sparsely developed area consisting of the two-acre lot and its proximate neighbors.

The matter was adjourned to the next meeting of the Board to give the members of the Board an opportunity to consider the matter further.

Mr. Clark had recused himself from this case.

### Giamelli

Applicant here seeks a variance from the provisions of Section 243-51 of the Code to permit the construction of a fence on top of the stone wall presently existing between applicant's house and Broadway. The Chairman noted that the applicant had earlier obtained a

variance to permit the construction of a driveway within the Broadway Buffer, on condition that he increase the height of the existing stone wall, construct a berm behind the wall and plant vegetation on the berm, screening the driveway from Broadway, all of which the Chairman noted applicant had done. The Chairman noted that the addition of a fence as requested would not be a material addition to the construction already there, particularly since he noted that there had been a fence on that location at a prior time. On motion duly made and seconded the application was unanimously approved.

#### Barlia

The substance of this request, presented by Bradley Olsen of Gotham Designs, Ltd., is to permit the construction of a deck which would impinge by 2' on the 15' sideyard setback requirement, plus an additional 4' to permit the construction of a small area to accommodate an outdoor grill. Upon consideration of all the relevant factors, the Board, upon the Chairman's motion, duly seconded, approved the request, upon condition that

applicant plant and maintain vegetation which will screen the view of the deck from the contiguous lot to the west. In addition, the Board granted an additional request for a variance to construct a small entranceway on the front of the house.

This matter had been considered at length at the prior meeting of the Board, to the minutes of which reference is made, a decision having been postponed at that time to permit the members of the Board to view the premises.

#### Weiss

Applicants here were represented by Eva Klein, Architect, who presented a letter dated April 27, 2000, outlining the requests, together with drawings and photographs of the proposed additions.

A problem presented was the proximity of a corner of the north proposed addition to the property line, exceeding the original subdivision requirements. The building inspector had denied the building permit on that account.

Ms. Klein explained the need for additional space, and argued that the impact the additions would have on the neighborhood was not substantial. She stated that the Weiss's had received the permission of the management of the development.

The Board adjourned the matter, to permit the Weiss's to submit written approval from the management of the development.

#### Inaba

No one appeared on behalf of this application and it was stricken from the calendar.

#### Wazen

Dr. Wazen seeks permission to enclose an existing porch on the eastern side of his house and an area between his house and his garage, in accordance with plans submitted at the hearing.

Dr. Wazen was represented by Dr. Leonard Sieverding, Architect.



The building inspector had denied a building permit on account of the fact that the enclosures did not meet the required sideyard setback of Section 243-11 of the Code.

Mr. Sieverding submitted a series of drawings, including plans of the first and second floor and of the attic, elevations and a site plan. He explained that Dr. Wazen wished to enclose a porch on the east **side of** the property, and to enclose an area between his house and his garage, likewise on the east side. Since the house line and the area between the house and the garage to be enclosed encroach upon the sideyard setback requirements, the proposals require a variance because they are enlargements of non-conforming uses. Mr. Sieverding explained the desirability of the proposed changes and their lack of significance as far as the neighborhood was concerned.

Upon reviewing the factors which the Board is required to review, the Chairman moved that the application be granted, which was duly seconded and unanimously passed.

There being no further business to come before

the meeting, it was, upon motion duly made and seconded,  
unanimously adjourned.

A handwritten signature in cursive script, appearing to read "Geo. Rowe", written in black ink.

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George Rowe, Jr.